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NO. 595

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1968

EARL R. HINGER,

Petitioner,

vs.

CITY OF PIQUA,

Respondent.

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

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To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States of America:

The petitioner respectfully moves for leave to file a petition for rehearing of the order denying the petition for writ of certiorari, and herewith files such petition, and requests that such leave be granted even though it has been more than twenty-five days since the decision of this court denying the petition for writ of certiorari.

The basis of this present motion is that it is still within term, and both counsel in this case misconstrued Rule 58 regarding rehearings. In the printed rules of this court the first two paragraphs of Rule 58 read as follows:

"1. A petition for re-hearing of judgments or de cisions other than those denying or granting certiorari may be filed with the Clerk in term time or in vaca tion, within 25 days after judgment or decision, etc.

"2. A petition for rehearing of orders on petition for writs of certiorari may be filed with the clerk in term time or vacation, etc."

Counsel for petitioner made no effort to have the time enlarged by this court because he construed the rule to mean that in the absence of an extension it was twenty five days on all matters other than petitions for writs of certiorari, and that with the latter it could be done at anytime during term.

Respectfully submitted,

FAUST, HARRELSON & THORNBURGH

William H. Thornburgh
Attorney for Petitioner